

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7458**

**BILL NUMBER:** SB 526

**NOTE PREPARED:** Apr 21, 2011

**BILL AMENDED:** Apr 20, 2011

**SUBJECT:** Government Matters.

**FIRST AUTHOR:** Sen. Merritt

**FIRST SPONSOR:** Rep. Hinkle

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill has the following provisions:

*Fire Department Consolidation:* It amends the fire consolidation statutes (effective January 1, 2013) applicable to Marion County to provide for consolidation if: (1) the legislative body of the consolidated city adopts an ordinance to consolidate a township fire department into the fire department of the consolidated city; and (2) the trustee of that township and the mayor approve the ordinance.

It specifies that trustees in townships in Marion County that have not consolidated fire departments retain the duty to provide fire protection.

*Excluded Cities:* The bill authorizes the consolidation of an excluded city's fire department into the fire department of the consolidated city if: (1) the legislative body of the excluded city, after approval by the executive of the excluded city, adopts an ordinance approving the consolidation; and (2) the legislative body of the consolidated city adopts an ordinance, approved by the mayor of the consolidated city, approving the consolidation.

*Division of Public Safety:* It specifies that the consolidated fire department and the consolidated law enforcement department are divisions of the department of public safety.

*Firefighters:* The bill provides that for a firefighter who, after the consolidation, becomes a firefighter employed by the consolidated fire department: (1) the time served by such an individual as a firefighter with the consolidated fire department shall also include the total time served by the individual as a firefighter with the township fire department in which the individual was serving at the time of the consolidation; and (2)

the hire date of such an individual is the date the individual was hired as a firefighter by the township department in which the individual was serving at the time of consolidation.

*Firefighters Merit Rank:* The bill provides that an individual who becomes a firefighter employed by the fire department of the consolidated city through the consolidation of township fire protection services after 2010 may not have the individual's merit rank reduced below the merit rank held by the individual on January 1, 2011, as a firefighter employed by a township fire department

*Coordination of Fire Services:* It requires a township or fire protection territory that has not consolidated into the consolidated fire department to coordinate with the consolidated fire department: (1) to ensure sufficient fire protection coverage throughout the consolidated city; and (2) to achieve savings through joint purchasing.

*Maximum Property Tax Levy:* The bill provides that the maximum property tax levy of a consolidated city for property taxes first due and payable in the year following a fire department consolidation shall be increased by an amount equal to the combined maximum property tax levies of each consolidating entity for property taxes first due and payable for fire protection and related services in the year in which the fire department consolidation occurs.

*Fire Special District:* It provides that for three years after a consolidation of a fire department, the consolidated city may levy a tax above the maximum property tax levy for the fire special service district in each township or excluded city that is necessary to phase out borrowing for fire and emergency services, and that thereafter the tax rate for the consolidated fire department must be uniform within the entire service area served by the consolidated fire department.

*Township Offices and Functions:* It provides for the following transfers of township offices and functions to city and county government in Marion County:

- (1) The operations of the township small claims courts shall be accounted for in the county budget beginning January 1, 2012. The township trustee prepares the trustee and small claims court budgets.
- (2) The township duties and responsibilities concerning weed control and parks and recreation are transferred to the consolidated city on January 1, 2013.
- (3) Township trustees shall administer township assistance and maintain township cemeteries after December 31, 2013.
- (4) Township boards are abolished on January 1, 2013, with the county legislative body as their successor.
- (5) Township government is abolished on January 1, 2013, and statutes related to township government in a county having a consolidated city are repealed.

*Township Employees:* The township trustee (and not any county official or employee) remains responsible for and retains the powers and duties related to hiring, supervising, disciplining, and firing those employees. The bill also provides that a township employee may not lose their employment as a result of their transfer to county employment. It provides that the hire date of an employee is the date the employee was hired by the township.

*Other Township Officials and Employees:* It provides the following with regard to a trustee, constable, small claims court judge, or employee of the township: (1) The vacation time accrued transfers when the individual becomes a county employee. (2) The individual is entitled to receive the same salary that the individual

received from the township. (3) The salary and benefits of an individual may not be reduced by the county legislative body before January 1, 2015, and only as otherwise permitted by law

*Township Tax for Indebtedness:* The bill specifies that after abolition of a township government, the territory of the township comprises a taxing district for the payment of township indebtedness existing at the time of the abolition. It exempts from the property tax levy limits any amounts imposed by the consolidated city or the county to fund former township indebtedness.

*Transfers:* The bill provides that a transfer of duties between the townships and the county results in the transfer of property, equipment, personnel, records, and rights, contracts, and indebtedness.

*Weed Control Board:* It specifies that beginning July 1, 2011, the weed control board in a county having a consolidated city is the board of code enforcement.

*Maximum Property Tax Levy - Township Transfer:* The bill adjusts the maximum property tax levy for the county to account for the transfer of other township powers and duties.

*Controller:* The bill provides that the obligation of the controller of the consolidated city to place the tax rate on the tax duplicate for the abolished township government, collect the tax, and pay it over to the proper creditors is subject to the approval of the county legislative body.

*Constable Training:* The bill provides that each constable and deputy constable must successfully complete certain training courses. It also specifies that beginning July 1, 2011, the police powers of a constable are to: (1) make arrests under a court order; (2) keep the peace in the court during court proceedings; (3) carry out the orders of the court; and (4) to take any police action for which the constable has received law enforcement training.

*Township Accounts for Township Assistance:* The bill provides that money budgeted for a particular township's township assistance expenses and obligations shall, as provided in the budget adopted by the county fiscal body, be distributed to a township account established for that township and administered by that township's trustee. It specifies that township assistance expenses and obligations shall be paid by the township trustee from the amounts in the township's account.

*Standards for Township Assistance:* The bill requires a committee of township trustees or their designees to meet between January 1, 2013, and July 1, 2013, to develop a proposal for countywide township assistance standards and submit the committee's proposal to the county legislative body for its consideration. The bill provides that the city-county council may, by ordinance, establish standards for the provision of township assistance.

*Expend or Encumber Funds:* It provides that before September 1, 2011, a township may not expend or encumber more than 5% of any fund without the written approval of the controller of the consolidated city.

*Economic Interest Statement:* The bill requires township trustees and constables in a county having a consolidated city to file an economic statement of interest form in the same manner required by the county legislative body for elected county officials. It also provides that the city-county council may establish by ordinance other requirements for trustees and constables in the same manner as requirements for other elected county officials are established.

*Building Authority:* It specifies that in a county having a consolidated city, the annual operating budget of a building authority is subject to review and approval by the city-county legislative body.

*Small Claims Courts:* The bill specifies that: (1) the small claims courts operate independently from the circuit and superior courts; and (2) except for adopting the budget and approving salaries, the city county council does not have authority over a small claims court judge and the operations of a small claims court. It also provides that the executive committee of the superior court does not have authority over a small claims court judge and the operations of a small claims court. The bill also provides that if any funds remain from the county's share of small claims court administration fees after the payment of expenses of operating the small claims court, the remaining funds may be used to fund public safety programs in the county as set forth in an ordinance or resolution adopted by the city-county council.

*Sheriff Merit Board:* It specifies that the power of the sheriff to remove a special deputy at any time, without notice, and without cause, does not apply if the legislative body of Marion County establishes a merit system for special deputies.

*Fire Merit Board:* The bill specifies that in the case of a township that has not consolidated the township's fire department, the township's fire merit board after the township board is abolished shall consist of three members appointed by the township trustee and two members selected by the members of the fire department.

*Board of Commissioners:* The bill abolishes the Marion County board of commissioners effective January 1, 2015

*Township Assessors:* It deletes references to township assessors in statutes applicable to Marion County.

*Budget Review:* The bill deletes provisions specifying that in a county having a consolidated city, an ordinance or resolution of the legislative body approving or modifying the budget of a political subdivision that the legislative body is permitted by statute to review; is not subject to veto.

*Civil Taxing Unit Levy Appeal:* The bill specifies that in a county having a consolidated city, a property tax levy appeal by a civil taxing unit, other than an excluded city, is subject to the review and approval of the county legislative body and is subject to veto by the county executive.

*Public Libraries:* The bill allows county option income tax (COIT) to be appropriated by the city-county council to any public library in Marion County.

*Property Tax Levies:* The bill requires the Department of Local Government Finance (DLGF) to adjust maximum permissible property tax levies and property tax rates as necessary to account for transfers of duties, powers, and obligations.

*Disposal of Tax Default Property:* It provides that the county treasurer (instead of the county executive) is the approving authority for the disposal of property obtained by tax default.

*Indianapolis-Marion County Public Library Board:* The bill provides that effective January 1, 2012, the seven members of the Indianapolis-Marion County public library board are appointed as follows:

- (1) The mayor of the consolidated city appoints three members, of which not more than two may be of the same political party.

- (2) The minority leader of the city-county council appoints two members.
- (3) The majority leader of the city-county council appoints two members.

*Township Tax Rate Limits:* It provides that in all townships (including townships in Marion County and outside Marion County), the part of the total township tax rate that is not related to providing fire protection services or paying bonds, loans, and leases related to fire protection services may not exceed 5% of the total tax rate imposed for the year on a person's property within a taxing district.

*Excess Fund Balance:* The bill requires the DLGF to determine whether, with regard to a township in Marion County that does not operate a fire department or participate in a fire protection territory, the balance in a township's rainy day fund in addition to the township's other funds (other than debt service funds) exceeds the amount needed by the township to carry out the purposes of the fund. It also provides for transfer of 90% of the excess fund amounts to a dedicated fund for each township to satisfy township debt obligations and, if no debt remains, reduce property taxes of the taxpayers of that township.

*Funds Appropriated for a Township Fire Department:* The bill provides that taxpayer funds to support a township fire department may not be appropriated by the county legislative body for any other purpose except to fund that fire department, and the county legislative body may not reduce the tax rate of a township fire department or fail to adequately fund that fire department in an effort to force it to consolidate with the consolidated fire department

*Unsafe Building Law:* It provides that in a consolidated city, the administering department and the enforcement authority of the unsafe building law is the department authorized by ordinance. The bill also provides that if work is done under an order to: (1) seal an unsafe building; (2) exterminate vermin; or (3) remove trash and debris; the work may be performed by a contractor awarded a contract to perform the work for the enforcement authority. It provides that bids may be solicited and a contract awarded for work on more than one property if the bid and contract include an allocation of the costs among the various unsafe premises in proportion to the work to be accomplished.

**Effective Date:** Upon passage; July 1, 2011, January 1, 2012; January 1, 2013; January 1, 2015.

**Explanation of State Expenditures:** *Law Enforcement Training Board:* The bill could increase costs for the Law Enforcement Training Board to create and offer a 40-hour training course for and keep a log of all constables and deputy constables who have been trained and receive badges. In addition, the Board would provide a seven-hour annual course. The Board is required by statute to meet at least four times a year, but typically, the Board meets six times a year. Board members are entitled to a per diem and travel expenses related to Board service. [The Indiana Law Enforcement Academy (ILEA) received an appropriation of \$4.4 M in state General and dedicated funds for FY 2010 and FY 2011.]

*Department of Local Government Finance:* DLGF may incur additional cost to adjust the maximum permissible property tax levies and property tax rates of units to reflect transfers of duties and responsibilities and to review balances in township funds and determine if an excess balance exists. The bill's requirements are within the DLGF's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** (Revised) Summary- The bill has indeterminate fiscal impact on

Marion County for the transfer of township powers and duties, and it will increase costs for constable training. The bill does not delete or diminish any responsibilities or administrative functions currently assigned in statute to township trustees, township boards, or other entities, but rather transfers some of the responsibilities to the county. Additionally, no township employees may lose their employment as a result of their transfer to county employment, and the salary and benefits of a township trustee, small claims court judge, constable, or employee may not be reduced before January 1, 2015. If the county can perform or contract for the performance of the duties and administrative functions of the townships or other consolidating entity more efficiently, cost savings will result.

*Additional Details- Abolishing Townships:* Township government in Marion County will be dissolved by the bill, and its duties and powers conveyed to the county beginning on January 1, 2013. The seven-member township boards are abolished by the bill, and all functions, duties, and responsibilities of the township boards which have not already been consolidated are transferred to the county. The assets, property rights, equipment, records, personnel, and contracts are to transfer to the county, as well. Beginning on July 1, 2011, designees of the county executive will meet with the township trustees and small claims court judges to effectuate the transition. [Based on the 2009 township annual reports available for eight of the nine townships in Marion County, the median board member pay was \$6,932, ranging between \$3,000 and \$13,500.]

(Revised) *Township Trustees:* The township trustee will continue to administer township assistance and cemeteries within the township. A committee of county trustees will or their designees will meet to develop a proposal for countywide township assistance standards to be considered by the county legislative body. The county legislative body will adopt a county budget with funds to administer these responsibilities and transfer the funds to a township account to be administered by the township trustee. The bill also allows the county executive to appoint a resident of the county to administer appeals concerning township assistance.

*Marion County Small Claims Courts:* The judges of the small claims court will continue to be elected to a four-year term of office. After December 31, 2011, a small claims case may be heard in any small claims court. Full-time judge salaries are to be set by the City-County Council, and part-time judge salaries are to be determined by the city controller and approved by the City-county Council. Judge salaries are payable in 12 equal monthly installments.

*Constables:* A small claims court constable and deputy constables are to annually file statements of economic interest and complete required initial and annual training. While the ILEA does not charge agencies for basic training, the schedule of fees for in-service training ranges between \$175 and \$375 for a 40-hour class. Differences in cost depend on residency at the ILEA

[Constables are currently paid from the service of process fee, which is \$13, whether delivered in person or by certified mail.]

(Revised) *County Board of Commissioners:* In Marion County, the county treasurer, auditor, and assessor comprise the county board to make certain appointments, exercise powers concerning the issuance and payment of bonds, and to exercise powers granted in the Indiana Constitution. Under the bill, the county treasurer will continue to be responsible for tax default property. The county officials serve as Commissioner ex-officio, meaning that they do not receive compensation specifically for serving on the Board. However, the City-County Council in setting compensation for these officers, could change their salary based on required responsibilities.

**Explanation of Local Revenues:** *Township District:* The township will retain its geographical boundaries and its name to pay any indebtedness of the township prior to being abolished.

*County Township Assistance Fund:* The county legislative body will estimate the cost of township assistance in the county and establish a uniform rate throughout the county. The funds collected for township assistance will be placed in the county township assistance fund.

*County Cemetery Tax:* The county may levy a county cemetery tax and the county fiscal body may approve purchases to create a fund to maintain cemeteries. If the tax is not levied or is insufficient, the county general fund may be used.

*Maximum Property Tax Levies and Other Tax Distributions:* Following a fire consolidation, the maximum levy is to be adjusted to reflect the transfer of fire protection responsibilities to the consolidated city. Distributive shares of taxes other than property taxes, such as local option income tax, financial institutions tax, and motor vehicle excise tax, will transfer to the city. The city would be permitted to levy an additional tax in each township for up to three years to pay outstanding debt related to fire and emergency services in that township.

*Excess Fund Balance:* The township executive is to transfer 90% of any excess fund balance in a township fund (other than a debt service fund, but including the township rainy day fund) as determined by the DLGF first to the county treasurer. The county treasurer places the transferred amount in a dedicated fund for each township that may be appropriated by the county fiscal body for the benefit of township taxpayers and used to satisfy debt obligations or, if there are no debt obligations, to reduce the property taxes of the township taxpayers.

*Local Option Income Taxes:* Under current law, Marion County may use part of its COIT distribution to fund homestead credits, the Metropolitan Emergency Communications Agency (MECA), and the IndyGo transportation service. Currently, Marion County provides homestead credits and funds MECA, but does not fund IndyGo with COIT revenue.

The remaining COIT revenue is distributed to several civil taxing units (not schools) under a formula that applies only in Marion County. The current formula allocates a share of COIT revenue to each township, each of the four excluded cities, and a combined Indianapolis/Marion County. The included towns, libraries, and special taxing units do not directly receive a share of the revenue. The COIT revenue is allocated to receiving units via a formula that is largely based on the maximum levies of those units. The maximum levy used in the formula for Indianapolis/Marion County is equal to the sum of the maximum levies of the city and county, plus all of the civil taxing units that do not receive a direct share.

This provision would essentially transfer the townships' portions of certified shares to the city/county. The increase for the city/county and reduction for the townships would be about \$11.2 M after taking into account current transfers under interlocal agreements related to fire department mergers.

In addition to the ability to fund homestead credits, MECA, and IndyGo, this bill would permit funding any public library in Marion County. A library board may recommend and the county fiscal body may elect to provide revenue from certified distribution shares to the public library. A distribution to a public library would reduce the available amount of certified shares allocated to civil taxing units in Marion County. In CY2011, Marion County will receive \$154.6 M in COIT revenue. Of that amount, \$8.7 M will be used for MECA funding and \$13.2 M will fund homestead credits, leaving about \$132.6 M for distribution to taxing

units as certified shares.

Public Libraries in Marion County: The CY 2011 losses due to the circuit breaker caps are projected to be about \$360,000 for the Beech Grove Public Library, \$8,000 for the Speedway Public Library, and \$3 M for the Indianapolis-Marion County Public Library.

The following table contains the percentage of COIT certified shares that each taxing unit is likely to receive in CY 2012 under current law. These percentages also reflect transfers at current levels between units under interlocal agreements related to fire department mergers. In addition, the table shows an estimate of the percentage of certified shares that each taxing unit is likely to receive in CY 2013 and later under this bill. If the City-County Council funds libraries with COIT revenue under this provision, the reduction in certified shares would be roughly allocated among the taxing units according to these percentages. The actual fiscal impact would depend on action taken by the City-County Council.

<b>Percentage of Total Certified Shares by Taxing Unit</b>		
<b>Taxing Unit</b>	<b>CY 2012</b>	<b>CY 2013+</b>
Indianapolis / Marion County	88.66%	97.23%
Center Township	1.44%	0.00%
Decatur Township	0.42%	0.00%
Franklin Township	0.33%	0.00%
Lawrence Township	0.81%	0.00%
Perry Township	0.46%	0.00%
Pike Township	1.92%	0.00%
Warren Township	0.48%	0.00%
Washington Township	0.44%	0.00%
Wayne Township	2.18%	0.00%
Lawrence Civil City	1.13%	1.13%
Beech Grove Civil City	0.92%	0.87%
Southport Civil City	0.03%	0.03%
Speedway City Civil Town	0.80%	0.74%
<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>
<b>Amounts may not total due to rounding</b>		

*Township Tax Rate Limits:* Beginning with taxes payable in 2012 under this provision, the non-fire protection portion of a township's property tax rate may not exceed 5% of the total tax rate of a taxing district. The taxing district tax rate is the total rate for all taxing units imposed on property situated in a district. A review of 2011 property tax information (2010 in Lake County and 2007 in LaPorte County) reveals that the non-fire protection portion of township property tax rates exceeded 5% in 35 taxing districts. In all, 28 townships were represented in those districts. (Some townships appear in more than one taxing district.) The total levy that would have been lost under the terms of this provision would have been \$5.9 M. The estimated levy loss by township is shown in the following table.



The levy reduction would also cause a reduction in circuit breaker losses for all taxing units in the districts where (1) the township levies are limited under this provision, and (2) the circuit breakers have been triggered.

<b>Estimated Loss If Non-Fire Township Levy is Limited to 5% of Total Taxing District Levy</b>		
<b>County</b>	<b>Township</b>	<b>Levy Loss</b>
Allen	Wayne Township	24,999
Carroll	Burlington Township	18,072
Carroll	Rock Creek Township	9,108
Clinton	Johnson Township	16,899
Decatur	Sandcreek Township	13,412
Delaware	Center Township	2,640
Elkhart	Middlebury Township	597,943
Fountain	Van Buren Township	15,430
Gibson	Wabash Township	12,689
Greene	Cass Township	368
Greene	Wright Township	3,649
Hamilton	Clay Township	6,642
Harrison	Taylor Township	6,812
Kosciusko	Etna Township	3,289
Lake	Calumet Township	5,020,459
Madison	Boone Township	39,017
Madison	Van Buren Township	11,031
Marshall	Tippecanoe Township	7,492
Martin	Mitcheltree Township	13,640
Monroe	Polk Township	5,726
Newton	Beaver Township	8,632
Orange	Northwest Township	1,138
Spencer	Luce Township	16,415
Steuben	Richland Township	1,827
Sullivan	Jackson Township	1,266
Sullivan	Jefferson Township	362
Vermillion	Vermillion Township	1,426
Vigo	Sugar Creek Township	21,794
<b>Total</b>		<b>5,882,177</b>

**State Agencies Affected:** ILEA; DLGF.

**Local Agencies Affected:** Taxing units within Marion County.

**Information Sources:** Annual Reports available at [www.in.gov/itp/](http://www.in.gov/itp/); Local Government Database.

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